

**U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI**

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

In re:	§	Case No. 11-46399-705
	§	
Latoya Steward,	§	Chapter 7
	§	
Debtor.	§	

**ORDER DIRECTING THE RELEASE AND APPLICATION
OF \$52,206.00 HELD IN THE COURT'S REGISTRY ACCOUNT**

On June 10, 2014, the Court issued an Order of Judgment in this Case (the "Order of Judgment"), ordering that Robinson, Critique Services L.L.C, and their attorney, Elbert A. Walton, Jr. (the "Contemnors"), be made jointly and severally liable for \$49,720.00 in sanctions and attorney's fees. Of that judgment amount: (i) \$30,000.00 was made payable to the Court for sanctions (the "Sanctions Judgment"); (ii) \$1,710.00 was made payable to the Debtor's attorney, David Gunn, for attorney's fees (the "Attorney's Fees Judgment"); and (iii) \$18,010.00 was made payable to a legal services charity of the Debtor's counsel designation (the "Legal Services Charity Fees Judgment"). In addition, the Court also ordered that Robinson d/b/a Critique Services L.L.C. disgorge \$495.00 in legal fees for his "services," which had been paid by the Debtor, and directed that such fees be returned to the Debtor's estate for administration (the "Disgorgement Judgment").

The Contemnors appealed the Order of Judgment to the U.S. District Court for the Eastern District of Missouri (the "District Court"). On March 31, 2015, the District Court affirmed the Order of Judgment.

On April 14, 2015, the Contemnors filed a Notice of Appeal to the U.S. Court of Appeals for the Eighth Circuit (the "Eighth Circuit"). On April 15, 2015, the Court issued an order directing the Contemnors to: (I) Pay the Sanctions; (II) Post the Supersedeas Bond; or (III) Show Cause as to Why They Are Not Obligated to Pay or Post, or Why Further Sanctions Should not be Ordered. The Contemnors filed a "Request for Alternative to Posting a Supersedeas Bond" on April 23, 2015. The Court granted the request on April 24, 2015.

On May 1, 2015, Beverly Holmes Diltz, the owner of Critique Services L.L.C., presented a cashier's check (No. 1102805881) in the amount \$52,206.00 to the Clerk of the U.S. Bankruptcy Court for the Eastern District of Missouri (the "Bankruptcy Clerk"). The cashier's check was negotiated and all funds were deposited into the Court's Registry Fund.

On July 7, 2016, the Eighth Circuit affirmed the Order of Judgment. On July 29, 2016, the Eighth Circuit issued its Mandate pursuant to Federal Rule of Appellate Procedure 41(a). Since then, the Contemnors have not sought a rehearing en banc from the Eighth Circuit nor filed a petition for certiorari with the U.S. Supreme Court. Further, no notice of satisfaction has been filed establishing that the Contemnors intend to perform on their obligation and satisfy the Judgment Order.

On October 17, 2016, the Debtor filed a notice and request that the Court, advising that the legal services charity designated by the Debtor to receive the amount of the Legal Services Charity Judgment recently advised that it would not be able to accept the fees. The Debtor further advised that that she is undertaking efforts to make an alternate legal services charity designation. In light of this, she requested that the Court order that the funds securing the Legal Services Charity Judgment be released to Attorney Gunn, and that Attorney Gunn be authorized to hold those \$19,720.00 in funds in escrow in a bank account, until such time as the legal services charity designation can be made.

The Court now **ORDERS** that the following disbursements be made forthwith by the Bankruptcy Clerk:

1. \$30,000.00 – transfer from Registry Account 6047BK to Miscellaneous Fines and Penalties Account 109900.
2. \$1,710.00 – use funds from Registry Account 6047BK to pay David Nelson Gunn, The Consumer Law Center of Saint Louis, DBA The Bankruptcy Company LLC, 2025 S. Brentwood, Ste. 206, Brentwood, MO 63144.

3. \$495.00 – use funds from Registry Account 6047BK to pay Latoya Steward, the Debtor in the Case.¹

4. \$18,010.00 – use funds from Registry Account 6047BK to disburse to David Gunn, attorney for the Debtor for holding in escrow, as set forth below.

The Court **ORDERS** Attorney Gunn to hold the \$18,010.00 in escrow in a bank account that is opened for the sole purpose of holding the funds. While held in escrow, the \$18,010.00 may not be commingled with any other funds. Attorney Gunn shall hold the \$18,010.00 in such bank account until the Debtor has filed a Notice of Legal Services Charity Designation, designating a legal services charity to receive the \$18,010.00. Upon the filing of the Notice of Legal Services Charity Designation, Attorney Gunn shall release the Legal Services Charity Funds, by a single transaction for the purpose of donating such funds to the designated charity. Upon the release of the \$18,010.00, Attorney Gunn shall file a Notice of Release of Escrowed Funds. Further, the Court **DIRECTS** Attorney Gunn to report to the Court every ninety days as to the status of this endeavor, until such time as the designation and donation occur.

Further, the Court **ORDERS** that the remaining \$1,991.00 continue to be held by the Bankruptcy Clerk in Registry Account 6047BK until further order of this Court.

DATED: October 21, 2016
St. Louis, Missouri 63102
mtc


CHARLES E. RENDLEN, III
U.S. Bankruptcy Judge

¹ The Order of Judgment directed that the \$495.00 paid to E. Rebecca Case, the chapter 7 trustee in this Case. However, on February 3, 2016, Trustee Case filed a notice of abandonment of all assets of the estate. Accordingly, the right to payment on the Disgorgement Judgment is now the Debtor's property.

Electronic copy via CM-ECF

David Nelson Gunn

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